

In addition the Answer has revised the body of the rejection. While the rejection now relies on different interpretation (and cited portions) of Noel-Levitz and Thomas than those relied upon during the prosecution, the rejection is still deficient. The conclusions drawn from the "New" interpretations of the prior art and based upon ill fitting prior art disclosures are non sequiturs. Further, the Answer again relies on prior art that is not part of the rejection in an attempt to provide a limitation and a teaching as being well known in the art (Specifically, the reference to Dugan et al. '614, and '869). The Answer, as is evident in much of the previous prosecution, merely presents disparate disclosures, disjointed commentary and unsupported conclusions.

II. The Answer's new interpretation of Thomas.

The Office's final rejection relied upon paragraphs [0048] and [0065] to provide the limitations missing from Noel-Levitz. The Office stated:

"On the other hand, Thomas discloses a method for surveying customer (potential applicants), which includes providing a website containing links to a survey and to a partial application; assigning a unique access number ("PIN") to each candidate in the target group (paragraph 0048); electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site; providing each candidate accessing the web site and indicating a continuing interest in the education institution with electronic access to the partial application; for each candidate who electronically accesses the partial application (paragraph 0065).

While not presenting a new grounds of rejection *per se*, the Answer lays out new assertions that the Applicant is compelled to address.

A. The present application and appealed claims affirmatively recite three things, a survey, a partial application (“(d) providing a web site containing links to a **survey** and to a **partial application**,” Claim 12 [**emphasis added**]) and a full application (“(m) inviting each candidate to submit a **full application**” Claim 12 [**emphasis added**])

The Answer now improperly equates elements of Thomas with the claimed features of the present application as shown below

Thomas disclosure		Claimed Feature
Register information	=	partial application ¹
Registration form		
Survey application	=	complete application ^{2,3} or full application
Survey		

¹ “indicating a continuing interest in the education[institution] with electronic access to the partial application-(survey participant who is interested in completing a survey application (complete application) is first accesses the registration page and completes a **registration form** (partial application) ... and using the **registered information** (partial application) to complete the survey application) Answer, Pg. 12 [**emphasis added**]

² “indicating a continuing interest in the education[institution] with electronic access to the partial application-(survey participant who is interested in completing a **survey application** (complete application) is first accesses the registration page and completes a registration form (partial application) ... and using the registered information (partial application) to complete the survey application)” Answer, Pg. 12 [**emphasis added**]

³ “Applicant should duly not that potential survey participants first register electronically via a computer if they desired to participate in **survey** (complete application). Such a registered form is indeed a partial survey application in which potential survey participants have to complete before completing a **survey** (complete application).” Pg. 12 [**emphasis added**]

An application is not a survey and vice versa. The present application uses these terms' common and customary usage as is well known in the art. The Answer's equating of surveys and applications, necessarily and improperly severs the distinction. While the Applicant may be its own lexicographer, the Office is properly burdened with defined or accepted meanings. Thus for at least this reason the Answer's new interpretation renders the rejection improper.

B. The Answer also confuses these new interpretations and in doing so fails to provide support for the claimed limitations. The following table provides the claimed limitation, the support proffered by the Answer as well as the deficiencies of the support using the Answer's own interpretation.

Claim Limitation	Answer's Support in Thomas	Deficiency
<u>updating the database with information from the web based survey</u> "	"the response of the registration form is return[ed] to the survey system and saved to a response file... and the file is maintained on the participant in a database, wherein the file contains information concerning the participant that is useful for selecting participant for survey application. "	<p>As noted above, the registration form is used as the partial application and the survey is used as the complete application in the rejection.</p> <p>The claim requires the database to be updated with information from the survey (complete application) not from the registration form (partial application).</p> <p>The registration form of Thomas cannot be both partial application and the survey.</p>
<u>Offering each candidate invited to submit a complete application an incentive to submit the full application</u> "	see [0029]	<p>Paragraph [0029] describes an incentive to fill out the registration form (partial application, <i>see</i> above) not the survey (complete or full application, <i>see</i> above)</p> <p>"to motivate computer users to become registered participants, incentive can be provided" [0029]</p> <p>The registration form of Thomas cannot be both the partial application and the full application.</p>

III. The Answer fails to provide a proper disclosure of the limitation *“offering each candidate invited to submit a complete application an incentive to submit the full application.”*

The Answer now provides different teachings to provide the incentive. The Answer uses Noel-Levitz in a first instance to provide the teaching and then turns to Thomas for a disclosure of the incentive feature. Both, however, fail to provide the incentive limitation as recited in the claims.

A. Noel-Levitz

The only disclosure of Noel-Levitz proffered by the Answer (see pg. 14) is not, as purported, an incentive to fill out the application, but rather a goal to Optimize Enrollment and Net Revenue. Noel-Levitz states:

“2. Are you awarding aid even handedly? Your system should assure that all students with similar financial needs and academic ability receive the same award regardless of when they apply. Simply awarding financial aid packages until the resources are depleted will deprive some deserving students and limit you institution’s ability to shape the incoming class. Also make certain you have the ability to provide accurate early financial aid award estimates, so cost-conscious prospects will not eliminate your institution from their college selection list.” Noel-Levitz pg. 8.

There is no disclosure in Noel-Levitz much less the relied upon portion that evenhanded financial awards and early estimates are **offered to candidates**, much less those candidates specifically invited to submit a complete application, **as an incentive to**

submit the full application. The Answer has clearly taken unwarranted liberties in mischaracterizing Noel-Levitz's disclosure.

B. Thomas

The disclosure of Thomas proffered by the Answer (*See* pg. 14) is paragraph [0029]. Paragraph [0029] however as noted above discloses providing incentives to become a registered participant, not to fill out a full application as required by the Claims.

Thomas states:

Potential survey participants register electronically via a computer if they desire to participate in surveys. **To motivate computer users to become registered participants, incentives can be provided. Suitable incentives can vary widely.** For example, the incentives might include sweepstakes offer, free services, money (credit card debit, savings deposit, money market deposit), coupons, frequent flier miles, and the like. Once a participant has registered, a file is maintained on the participant in a database. The file includes various information concerning the participant that is useful for selecting participants for surveys as well as categorizing the participant when producing survey results. Thomas [0029] **[emphasis added]**

As noted above, a registered participant fills out a registration form which the Answer has interpreted as a partial application, not a full application. There is no disclosure offered by the Answer that teaches an incentive to complete a full application.

IV. Thomas does not disclose the feature of a *full application customized with personal information*.

The Answer has also completely failed to provide a disclosure that meets the feature of “*a full application customized with personal information from the updated database*”. Even *arguendo* if the survey is considered a full application as the answer insists, there has been no evidence offered by the office to meet the claimed element.

V. Reliance on non-cited art. (Dugan et al. US. Patents 6,256,614 and 5,774,869)

The Answer states:

“Noel-Levitz does not explicitly disclose assigning a unique access number (PIN) et each candidate ; electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site...”
(Answer p. 5)

and then states the same is

“old and well known in marketing plans for recruiting potential candidates for many education institution, as evidenced of Dugan et al...6,256,614 ...5,774,869”. (Answer p. 6)

The Applicant notes that ‘614 and ‘869 do not address educational institutions and thus they cannot serve as a basis for the Answer’s conclusion. Nor does Dugan support all the assertions proffered by the Answer, more over Dugan et al’s publication date (issue date) is later than the effective filing date of the present application and thus cannot serve as evidence as what was “old and well known in the art” at the time of present applications filing.

VI. Conclusion

The prior art relied upon by the Office, alone or in combination, does not show each and every limitation in the claims. The Answer's new interpretation of the cited art fails to correct the deficiencies in its old interpretation. The Applicant herein incorporates the Appeal Brief of 21 January 2009 in its entirety. The Applicant requests withdrawal of all the rejections and allowance of the Application.

Respectfully Submitted,

/mcc/

Mark C. Comtois

Reg. No. 46,285

DUANE MORRIS LLP
505 9th Street, N.W., Suite 1000
Washington, D.C. 20004-2166
Telephone: (202) 776-7800
Telecopier: (202) 776-7801
Dated: September 22, 2009